

### **REMARKS**

In the Office Action, claims 1, 3, 4, 6-9, and 11 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over co-pending application 10/905072. Claims 1, 3, 6-8, 11-21, and 23-30 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Kohler et al., (U.S. Patent 5,270,640, hereinafter "Kohler") in view of Kammer et al., (U.S. Patent 6,392,422, hereinafter "Kammer") and Erdman (U.S. Patent 3,866,117, hereinafter "Erdman"). Claims 4 and 9 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Kohler, Kammer, Erdman, and further in view of Kildishev et al., (U.S. Patent 3,746,979, hereinafter "Kildishev"). Claim 22 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Kohler, Kammer, Erdman, and further in view of Ward, (U.S. Patent 5,194,817, hereinafter "Ward"). Reconsideration and allowance of all pending claims are requested.

### **Provisional Double Patenting Rejection**

Applicants acknowledge the provisional obviousness-type double patenting rejection formulated by the Examiner. However, because neither the present application nor the parallel co-pending application 10/905072 has been allowed, the double patenting rejection must, for now, remain provisional. Applicants will prepare a substantive response in the event the present application and the parallel co-pending application are found allowable.

### **Rejections Under 35 U.S.C. § 103**

The Examiner rejected independent claims 1, 6, 12, 18, 29, and 30 and their dependent claims under 35 U.S.C. § 103(a) as being unpatentable over Kohler in view of Kammer and Erdman, or in view of these combined with teachings of Kildishev and Ward. The independent claims 1, 6, 12, 18, 29 and 30 recite, in generally similar language, calculating a dissipation factor based on the angular relationship between the differential phasor current and phasor voltage. To establish

a *prima facie* case of obviousness, the Examiner must advance a reasonable basis for the proposed combination. Applicants submit that the references simply cannot be combined as proposed by the Examiner. At the very least, the motivation for the combination advanced by the Examiner is unsupported by the art.

With respect to Kammer, FIG. 5 of this reference illustrates an evaluation circuit in the form of a network-supplied differential current or fault current relay. The amount of alternating current contained in the differential current is detected as a first network variable. The network alternating current between at least both network conductors and between the at least one network conductor and an equipotential bonding conductor or a neutral conductor is detected as a second variable. The product of the amplitude of the amount of alternating current contained in the differential current and the cosine of the phase angle between both detected network variables is determined as a measure for the resistive fault current of the network and load cut-out occurs when the determined product exceeds a specific threshold value.

With respect to Kohler, FIGS. 10(a) and 10(b) illustrate a flow diagram of the operation of the system. The method includes periodically measuring or continuously monitoring voltage and current values at each input to the motor. The negative sequence voltage and current values for each periodic measured input voltage and current value are determined. An effective negative sequence impedance phasor value angles from each of the determined negative sequence voltages and current values are calculated. The method further includes comparing the calculated negative sequence impedance phasor angles and/or real and imaginary components over a plurality of periodic measurements to detect a change therein, which change is indicative of an incipient failure mode.

As discussed above, Kohler already provides a method for detecting an incipient failure in a multi-phase electric motor. Also, Kammer provides a method

and device for monitoring insulation and fault current in an electrical alternating current network. According to the Examiner, as cited in the Office action, the combination of the teachings of Kohler and Kammer would purportedly allow accurate monitoring of faults.

In the Office Action, the Examiner simply cited Erdman to reject the independent claims 1, 6, 12, 18, 29, and 30 and their dependent claims due to the recitation of the dissipation factor by the Applicants. There is no reason, whatsoever, from any of the cited references, that dissipation factor should be calculated. Applicants submit that, in view of the fact that both *Kohler and Kammer already apparently accomplish the purpose cited by the Examiner for the modification of reference teachings*, there would be no motivation whatsoever for the combination, except to reach the recitations of the pending claims. It is axiomatic that such hindsight is impermissible.

The Examiner is respectfully reminded that, according to MPEP 2143.01 (suggestion or motivation to modify the references):

The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination.

It is clearly evident that there is no motivation to combine the teachings of Erdman with the teachings of Kohler and Kammer. Also, Kildishev and Ward do not provide the necessary motivation or suggestion for the combination. Because Kohler in view of Kammer and Erdman, or in view of these combined with teachings of Kildishev and Ward fail to teach all of the recitations of independent claims 1, 6, 12, 18, 29, and 30, a *prima facie* case of obviousness of the independent claims 1, 6, 12, 18, 29 and 30 cannot be supported. Thus, reconsideration and allowance of

independent claims 1, 6, 12, 18, 29, and 30 claims depending therefrom are requested.

**Conclusion**

In view of the remarks and amendments set forth above, Applicants respectfully request allowance of the pending claims. If the Examiner believes that a telephonic interview will help speed this application toward issuance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

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